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Subject: Payroll Processor Registration and Proof of Liability Insurance

Dear Payroll Processor:

There have been additional questions raised regarding who must register as a payroll processor and provide proof of liability insurance. First, here are some additional definitions to help explain the requirements:

Issuing payroll – The party that signs the payroll checks, or initiates EFT transactions for Direct Deposit to the employees' bank account is considered the issuer of the payroll. This includes those preparers who have rubber stamp signatures of an authorized agent from the client employer, or a digitized signature, which is printed on the check through a computer program. For example, if a payroll preparer uses their client's check stock to prepare payroll checks, but does NOT have signature authority on the checking account, or rubber stamp or digitized signature, then the client employer is the issuer of the payroll. If the payroll preparer receives the funds from the client employer and issues the payroll out of their own checking account OR if the preparer has signature authority, a rubber stamp or a digitized signature for the client's checking account and returns signed checks to the client, then the preparer is considered the issuer of the payroll. In terms of Direct Deposit Transactions, whomever initiates the Direct Deposit is the issuer, whether the funds are transferred to the employee's bank account from the client employer's checking account or from the preparer's checking account.

Filing returns – The party that signs the quarterly Withholding Report or Combined Withholding and Unemployment Contributions Report is the person taking responsibility for the report and is considered the filer. For example, if the payroll preparer signs the report, then the preparer is also the filer. If the reports are given back to the client employer to sign, then the employer is the filer.

Preparing (processing) payroll – The process of using data to determine each employee's gross pay; federal taxes; state taxes; other deductions; and employer's payroll tax liability for both federal and state government.

The additional questions that have been raised are as follows:

**Q>** My client brings in the information necessary to prepare the payroll reports and leaves me a signed, blank check to use in making payment of the taxes, and signs the blank return prior to it being prepared. Once the amount of liability is determined, the check is completed for the amount due with the report, and copies of the report and check are made and sent to the client. The original report and check are mailed to the State. Am I required to register and provide proof of liability insurance?

**A>** Based on the information provided in this scenario, it is difficult to determine whether the payroll preparer is required to register with the State or not. Additional information is needed. It was found that the client employer completes the check in its entirety, except for the dollar amount. In other words, the client completes the date, payee information, and signature; the preparer merely fills in the dollar amount. The client also signs

the quarterly return. In this instance, the preparer would not be required to register with the State as a payroll processor. They are not preparing and issuing payroll, nor are they preparing and filing returns. However, this practice is not advised. There are areas that could cause the preparer problems in the future. For example, by pre-signing the quarterly report before it is completed, the client is approving information they have not yet reviewed. If any errors occur on a report, the client and preparer may have difficulty establishing responsibility for the error.

**Q>** I prepare the quarterly reports with my clients. They sign the completed reports and provide a check for the amount due. The report and check are left with me, and I mail them in to the State. Am I required to register?

**A>** Since your client signs the quarterly reports, they are considered the filer. Since your client makes out the check for payment of the taxes due, you are not collecting, holding and remitting monies to the State. You are not required to register under this scenario.

**Q>** I do payroll work for many clients. According to the definitions provided, only one of my clients puts me into requirement to register and provide proof of liability insurance. What do I use as a basis in determining the amount of liability insurance coverage that is required?

**A>** Previous statements by Maine Revenue Services implied that the payroll of all clients should be used in determining highest weekly payroll. The actual basis should be the payroll of those clients for whom you actually prepare payroll, and should not include that of clients for whom you only prepare quarterly Withholding and/or Unemployment Contributions reports.

Maine Revenue Services is in the process of developing a Rule relative to Payroll Processing, which will include definitions and requirements. One will be mailed to you once it is promulgated.

If you have any additional questions relative to payroll processor registrations, please send your request in writing to:

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Maine Revenue Services  
24 State House Station  
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Sincerely,

Robert G. Adams  
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